

## DECISION #07-06

### DECISION ON THE PETITION OF MICHAEL COATES

A public hearing of the Acton Board of Appeals was held in the Town Hall on Monday, August 6, 2007, on the Petition of Michael Coates for a **SPECIAL PERMIT** under Section IV.I.8 of the Zoning Bylaws to allow an amendment of decisions #84-30 and #84-31 to enable Acton Hydro Company to install, operate and maintain flood control structures in the Powdermill Dam as described in the Supporting Design Report and as approved by the Federal Energy Regulatory Commission. Located at 316 Old High Street, Map J3/Parcel 41 & 1.

Present at the hearing were Kenneth F. Kozik, Member and Acting Chairman; Jonathan Wagner, Alternate Member; and Richard Fallon, Alternate, Member. Also present were Garry Rhodes, Building Commissioner; Cheryl Frazier, Board of Appeals Secretary; and the Petitioner, Michael Coates.

Mr. Kozik opened the hearing and read the contents of the file. The file contained no staff comments.

Mr. Kozik asked the Petitioner to begin. Mr. Coates explained that the purpose of the Special Permit is to allow amendment to two prior decisions affecting this dam, particularly with respect to flood control. This amendment would improve flood control of this dam because the present flood flows in the river are not fail safe and not automatic. Past floods, such as the one in 1955, can cause extensive damage to surrounding properties.

The Board of Appeals, after considering the materials submitted with the Petition, together with the information developed at the hearing, finds that:

1. The Petitioner seeks a **SPECIAL PERMIT** under Section IV.I.8 of the Zoning Bylaws to allow an amendment of Decisions #84-30 and #84-31 to enable Acton Hydro Company to install, operate and maintain flood control structures in the Powdermill Dam as described in the Supporting Design Report, FERC Project No. 7148-MA, September 2005.
2. The Federal Energy Regulatory Commission has approved the Supporting Design Report, FERC Project No. 7148-MA, September 2005.
3. The proposed amendments to Decisions #84-30 and #84-31 are consistent with the Master Plan and are in harmony with the general purpose and intent of the Zoning Bylaws.

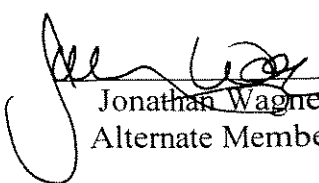
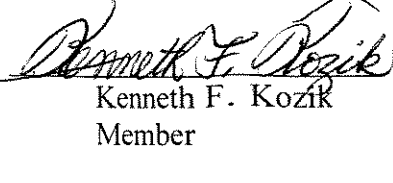
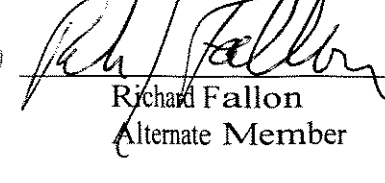
4. The proposed amendments otherwise comply with the applicable requirements of the Zoning Bylaws.
5. The proposed amendments are appropriate for the site and will not be more detrimental or injurious to the neighborhood than the existing conditions.

Therefore, the Board of Appeals, after reviewing the available materials and based upon the above findings, voted unanimously to **GRANT** the **SPECIAL PERMIT** subject, however, to the following **condition**:


1. Decisions #84-30 and #84-31 remain in effect, subject to the proposed amendments contained in the Supporting Design Report, FERC Project No. 7148-MA, September 2005.

Any person aggrieved by the decision may appeal pursuant to Massachusetts General Laws, Chapter 40A, Section 17 within twenty (20) days after this decision is filed with the Acton Town Clerk.

**TOWN OF ACTON BOARD OF APPEALS**

		
Jonathan Wagner Alternate Member	Kenneth F. Kozik Member	Richard Fallon Alternate Member

I certify that copies of this decision have been filed with the Acton Town Clerk and Planning Board on September \_\_/\_\_, 2007.

  
Cheryl Frazier, Secretary  
Board of Appeals

**EFFECTIVE DATE OF SPECIAL PERMIT:** No Special Permit, or modification, extension or renewal thereof shall take effect until a copy of the decision has been recorded in Middlesex County South District Registry of Deeds. Such decision shall bear the certification of the Town Clerk that twenty (20) days have elapsed after the decision has been filed in the Office of the Town Clerk and no appeal has been filed, or that if such appeal has been filed, it has been dismissed or denied.

**EXPIRATION DATE OF SPECIAL PERMIT:** This Special Permit must be exercised within two (2) years of its effective date.